



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS-174538

PRELIMINARY RECITALS

On May 20, 2016, the above petitioner filed a hearing request under Wis. Stat. § 49.45(5)(a), to challenge a decision by the Sheboygan County Department of Human Services regarding Medical Assistance (MA). The hearing was held on June 21, 2016, by telephone.

The issue for determination is whether the agency correctly discontinued the petitioner's household's BadgerCare (BC) Plus benefits effective July 1, 2016 for being over the program income limit.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services

[REDACTED]
Sheboygan County Department of
Human Services
3620 Wilgus Ave
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.

2. On March 21, 2016 the agency received information that the children's father picks the children up from daycare.
3. The agency reviewed the child support information. That information showed that the father's address was the same as the petitioner's address. The petitioner also reported to the child support agency on January 25, 2016 that she and the father were married and living together.
4. On March 31, 2016 the petitioner provided a hand written letter from the father's mother stating that the father was living in her home on [REDACTED] street in Milwaukee, WI.
5. The father works in Plymouth Wisconsin. All of the father's mail was being sent to the petitioner's address. The father reported the petitioner's address to his employer. The father's emergency contact information at the children's school also listed the petitioner's address. The father had a speeding ticket in November 2015. The address listed for the father on Wisconsin Circuit Court Access Program is the petitioner's address.
6. The father was on probation. His probation agent stated that he reported his mother's address on [REDACTED] street in Milwaukee, WI. The probation agent did not conduct a home visit to verify this residence.
7. Following their investigation, the agency added the father to the petitioner's case effective July 1, 2016. The petitioner's household size was five consisting of herself, the father, and three children.
8. The father's gross income from January 1, 2016 through May 7, 2016 was \$9,901.12. The petitioner's monthly gross income was \$926.97 in February 2016.
9. The petitioner's BadgerCare (BC) Plus benefits terminated effective July 1, 2016.
10. On May 20, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1. The program has always provided coverage for Wisconsin children who meet the financial and non-financial eligibility rules. *Id.* This aspect of the program did not change. *Id.* The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. An eligible adult applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount for a household size of five is \$2,368 in monthly gross income. *Id.*, § 50.1. For children under 19, the income limit is 300% FPL. *Id.*, § 16.1.1. 300% FPL for a household size of five is \$7,110.00 in monthly gross income. *Id.*, § 50.1.

In this case the agency conducted an investigation, determined that the father of the children was living in the home, and added him to the household. The petitioner never reported the father in the home. At the hearing she maintained that he was living in Milwaukee. I agree with the agency that the father is living in the petitioner's home. All of the father's mail was being sent to the petitioner home, the father reported the petitioner's address to his employer, the father's emergency contact information at the children's school was the petitioner's address, and the father provided the petitioner's address when stopped for a

speeding ticket in November 2015. Although the father reported a different address to his probation agent, the agent never conducted a home visit to verify that residence.

Including the father in the home makes the household's monthly gross income \$2,831. This exceeds 100% FPL, thus the petitioner is no longer eligible for BC Plus benefits. The petitioner's children appear to still be entitled to BC Plus coverage. The income limit for children is 300% FPL. The household's income is below this limit. I am unclear if the agency discontinued both the petitioner and her children from BC Plus coverage. The agency presented significant evidence about the father being in the home, but provided next to no evidence about their eligibility determination after they concluded that the petitioner had failed to report the father in the home.

I am remanding this case back to the agency to re-determine the household's BC Plus eligibility with the father included in the home. The agency should re-determine and re-verify income. The last income listed for the petitioner was from February 2016. The father's income is as recent as May, but the agency may still re-verify that. Based upon the household's income, the agency should re-determine BC Plus eligibility for the children and the petitioner.

CONCLUSIONS OF LAW

The agency correctly discontinued the petitioner's household's BadgerCare (BC) Plus benefits effective July 1, 2016 for being over the program income limit.

THEREFORE, it is

ORDERED

That this case back to the agency to re-determine the household's BC Plus eligibility with the father included in the home. The agency shall comply with this order within 10 days of the date of the decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

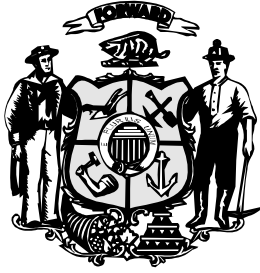
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 13th day of July, 2016

\s _____
Corinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 13, 2016.

Sheboygan County Department of Human Services
Division of Health Care Access and Accountability